



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,726	11/25/2003	Gary P. Raden	MS306092.01	5768
27195	7590	08/28/2008		
AMIN, TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER JEAN GILLES, JUDE	
			ART UNIT 2143	PAPER NUMBER
			NOTIFICATION DATE 08/28/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com  
hholmes@thepatentattorneys.com  
lpasterchek@thepatentattorneys.com

# Office Action Summary

**Application No.**

10/721,726

**Applicant(s)**

RADEN ET AL.

**Examiner**

JUDE J. JEAN GILLES

**Art Unit**

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-32, 34-37 and 39-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-32, 34-37 and 39-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/25/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/14/2008 and 05/09/2008.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is in Reply to communication filed on 05/19/2008.

#### ***Minor informalities***

1. Claims 6 and 7 are objected to because of the following informalities: both claims 6 and 7 depends on cancelled claim 5. In order to advance prosecution of the application, the Examiner is under the assumption that both claims 6 and 7 depend on claim 1. Appropriate correction is required.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 08/14/2008 and 05/09/2008 have been considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-32, 34-37, 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayes et al (Rayes), U.S. Pub. No. 20050086502 A1, in view of Clayton et al (hereinafter Clayton), US 6971101 B1.

Rayes teaches a system embodied on a computer-readable storage medium that facilitates determining a state of a networked system (fig. 1), comprising: a component that obtains system data corresponding to a plurality of system components that reside on the networked system (0048; controller 110); and an aggregator that aggregates the system data in accordance with predetermined rules (0060) analyzes at least a subset of the system data and generates an output corresponding to a state of a subset of the plurality of system components (0055-0057, 0060, 0120, item 106, 102a-n).

Although Rayes discloses substantial features of the invention, Rayes does not distinctly teach "the output utilized to automatically limit aggregate utilization of at least one aspect of the networked system according to a defined limit on the aggregate utilization". Nonetheless, this feature is well known and would have been an obvious modification to the system shown by Rayes as evidenced by Clayton.

In the same field – endeavor, Clayton shows a aggregate utilization of a resource base on predefined rules. Specifically Clayton teaches that "Based on the priority level (252, 254, 256), an asynchronous entity (214) takes over control of user interface device resources from an entity (210), utilizes the resources, and returns them to the entity (210) " (see Clayton, abstract; see also Clayton, fig. 3-6).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Rayes to employ the technique shown by Clayton in order to diminish user inconvenience and makes use of the electronic device and accompanying applications less frustrating and inefficient for the user (see Clayton, column 1, lines 20-27). By this rationale, claim 1 is rejected.

Regarding claims 2-4, 6-32, 34-37, 39-41 the combination Rayes-Clayton discloses:

2.

The system of claim 1, additionally comprising a remote access component that provides a user with remote access to the output (Rayes; 0125).

3.

The system of claim 1, the component comprising a polling component that polls the plurality of system components to obtain the system data (Rayes; 0048).

4.

The system of claim 1, the aggregator comprising a distributed database engine (Rayes; item 124).

6.

The system of claim 5, the predetermined rules comprising aggregation of data within a single system (Rayes; 0120).

7.

The system of claim 5, the predetermined rules comprising aggregation of data with a plurality of systems (Rayes; 0120).

8. The system of claim 1, at least one of the plurality of system components comprising a system component that sends data to the component unprompted. 9. The system of claim 8, the unprompted system component utilizes at least one-of unicasting, multicasting, and or broadcasting techniques to send data to the component (Rayes; 0047-0048).

10. The system of claim 1, the system components comprising a plurality of

components on at least one server (Rayes; items 330, 126).

11. The system of claim 1, the system components comprising at least one of a running process, a data source, and or a data log (Rayes; 0088).

12. The system of claim 1, the output comprising hidden information obtained via data mining of aggregated system data (Rayes; 0051, 0060, and 0120).

13. The system of claim 12, the hidden information comprising at least one of system diagnosis information and or system prognosis information (Rayes; 0063, and 0087).

14. The system of claim 1, the output comprising a user customizable output (Rayes; 0063, and 0087).

15. The system of claim 1, the output comprising a status report.(Rayes; 0063, and 0087).

16. The system of claim 15, the status report relating to at least one of system performance data, system health data, and or system utilization data (Rayes; 0063, and 0087).

17. The system of claim 1, the output comprising at least one schema table to provide optimal access of data relating to the output (Rayes; 0125).

18. The system of claim 1, the output utilized to detect faulty errors in the networked system (Rayes; 0044, 0047).

Art Unit: 2143

19. The system of claim 1, the output utilized to provide automatic system-software updates to at least one system component on the networked system in response to the state of the subset of the plurality of system components (Rayes; 0128).

20. The system of claim 1, the output comprising at least one system control parameter (Rayes; 0053, and 0121).

21. The system of claim 20, the system control parameter comprising at least one of a load shed command or a load balancing command (Rayes; 0053, and 0121).

22. The system of claim 20, the system control parameter comprising a security preservation action to maintain security of at least one networked system (Rayes; 0048, and 0053).

23. The system of claim 20, the system control parameter comprising a remedial action to maintain operation of at least one system component on the networked system (Rayes; 0048).

24. The system of claim 1, the state comprising at least one of a previous state, a current state, and or a future state (Rayes; 0053, 0055, and 0059).

25. The system of claim 1, the state comprising a health status state of a networked system comprising the plurality of components (Rayes; 0048, and 0055).

26. The system of claim 25, the health status state comprising at least

one consisting of a previous health status state, a current health status state, and or a future health status state (Rayes; 0053, 0055, and 0059).

27. The system of claim 1, at least a portion of the system data corresponding to the plurality of system components is generated by at least one health monitor, a performance monitor, and or a utilization monitor (Rayes; 0048, and 0055).

28.

A computer-implemented method for facilitating state determination of a networked system (Rayes; figs 1-3), comprising:

obtaining system data corresponding to a plurality of system components that reside on the networked system, the system data contains at least information regarding utilization of system resources (Rayes; 0048, 0069-0070, 0078)

aggregating, according to predetermined rules, at least a portion of the system data corresponding to at least a subset of the plurality of system components; analyzing at least a portion of the aggregated system data; generating an output corresponding to a state of the subset of the plurality of system components (Rayes; 0055-0057, 0060, 0120, item 106, 102a-n).

utilizing the output to provide an automatic software update to at least one system component to mitigate a detected error state (see Clayton, abstract; see also Clayton, fig. 3-6); and



Art Unit: 2143

masking alerts associated with the error state when a software update is not available (see Rayes, 0059-0061). The same motivation and reason to combine utilized for the rejection of claim 1 is also valid for this claim. By this rationale claim 28 is rejected.

29. The method of claim 28, further comprising: sending the output to a selectable recipient at a selectable rate in a selectable manner (Rayes; 0125; 0121).

30. The method of claim 28, further comprising: customizing the output according to a set of rules determined by a user (Rayes; 0125; 0121).

31. The method of claim 28, further comprising: controlling an aspect of the networked system in response to the output corresponding to the state of the subset of the plurality of system components (Rayes; 0125; 0121; 0087, 0063).

32. The method of claim 31, the aspect comprising an operational system parameter responsible for maintaining operation of the networked system (Rayes; 0038).

34. A system embodied on a computer-readable storage medium that facilitates determining a state of a networked system, comprising:  
means for obtaining system data corresponding to at least a subset of a plurality of system components that reside on the networked system, the system data contains at least information regarding utilization of system resources (Rayes; 0048, 0069-0070, 0078);  
and means for aggregating at least a portion of the obtained data; and means for analyzing at least a subset of the portion of the obtained data to generate an output

Art Unit: 2143

corresponding to a state of the subset of the plurality of system components means for prioritizing utilization of at least one resource on the networked system (Rayes; 0055-0057, 0060, 0120, item 106, 102a-n); and means for automatically curtailing utilization of a resource by a first user of the networked system when a second user with a higher utilization priority requires the same resource (see Clayton, abstract; see also Clayton, fig. 3-6). The same motivation and reason to combine utilized for the rejection of claim 1 is also valid for this claim. By this rationale claim 34 is rejected.

35. A system that employs at least one system of claim 1 to provide a remotely accessible state determination service (Rayes; 0125).

36. The system of claim 35, the state determination service comprising an aggregation, analysis, and control service for at least one networked system pertaining to at least one system administrator (Rayes; 0089, 0109, and 0120).

37. A method that employs the method of claim 28 in a multiple networked system service environment to determine and predict common errors across at least a subset of the multiple systems (Rayes; 0044, and 0047).

39. A computer readable medium having stored thereon computer executable components of the system of claim 1. A device employing the method of claim 28 comprising at least one of a computer, a server, and or a handheld electronic device (Rayes; items 330, 126).

Art Unit: 2143

41. A device employing the system of claim 1 comprising at least one of a computer, a server, and or a handheld electronic device (Rayes; items 330, 126).

### ***Conclusion***

5. ***This action is made Non-Final.*** Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger, can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3301.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0800.

/Jude J Jean-Gilles/

Primary Examiner, Art Unit 2143

JJG

August 24, 2008